

Third Issue of the Journal of Private International Law for 2025

The third issue of the *Journal of Private International Law* for 2025 was just published. It contains the following articles:

Elena Rodríguez-Pineau, “Cross-border insolvency avoidance actions in the EU: a necessary reflection”

After 25 years, the European Union can boast of having harmonised EU cross-border insolvencies in a Regulation (recasted once). The EU is presently addressing substantive harmonisation of insolvency law (via Directives) within the Union with a focus on restructuring and stakeholders’ interests. Although such legislation should apply without prejudice to the EU Insolvency Regulation, this approach is somewhat difficult to articulate since that Regulation was drafted with a focus on liquidation and maximising creditors’ protection. This tension is particularly acute in relation to transaction avoidance actions as the Regulation sets a double avoidance requirement while the proposed Directive fosters a more pro-avoidance position. This paper suggests several options that the EU legislature may follow to revise the Regulation’s transaction avoidance rule. It is contended that such revision needs to bear in mind how the issue is being addressed outside the EU in order to consider the ad extra regulation of said actions.

Benjamin Hayward, “So many thoughts about Tesseract: a private international law perspective”

On 7 August 2024, the High Court of Australia handed down its decision in Tesseract International Pty Ltd v Pascale Construction Pty Ltd. In doing so, it held (contrary to existing practitioner consensus) that certain Australian proportionate liability laws apply in Australian domestic commercial arbitration. Existing analyses assess this case from an arbitration perspective. As this article shows, however, the case is really about private international law. This being so, this article critiques the High Court’s reasoning and also Tesseract’s existing commentaries from a private international law perspective. As arbitration is a

dispute resolution process grounded in law, these critiques are offered in the service of helping Australian arbitration better secure its trade facilitation purposes.

Stefano Dominelli, "Torts in outer space: conflict of laws perspectives"

Human activities in outer space impose a reflection on the structural inadequacy of current connecting factors, such as the lex loci damni, which may not properly operate when all events are localised in areas (rather than a territory) not subject to the sovereignty of a State. By integrating space law principles and interests in conflict of law approaches, the aim of this work is to propose connecting factors which may apply in cases of satellite collisions or for torts in sub-orbital flights. Different constellations are created, each of which requires a specific assessment of the relevant interest which should mould specific solutions.

Thu Thuy Nguyen, "Governance of low-skilled labour migration: rethinking the potential of private international law for the promotion of decent work for migrant workers"

The proliferation of temporary labour migration programmes has enabled low-skilled workers from developing countries to seek employment in industrialised countries. However, due to inadequate regulatory frameworks at the national and international levels, these programmes fail to ensure decent work for the low-skilled migrant workers. By utilising the low-skilled labour migration between Vietnam and Japan as a case study, this article highlights the failure of the current regulatory framework in adequately governing the intermediaries and employers throughout the migration process. This article also presents the private international law challenges faced by migrant workers when initiating transnational civil litigation against abusive intermediaries and employers before Vietnamese or Japanese courts. To combat the exploitative practices of the migration industry and promote decent work, besides reforming ex-ante regulations, this article argues that the international community should reconsider the potential of private international law. This paper advocates that private international law could be better crafted to enable different stakeholders to engage in social dialogue about, and to seek the realisation of, the value of

decent work. Based on this argument, this paper proposes solutions to remedy Vietnamese and Japanese private international law rules to facilitate the realisation of the value of decent work for low-skilled migrant workers under temporary migration programmes.

Aygun Mammadzada, "Beyond the model law: the case for a Commonwealth-wide adoption of the Hague Judgments Convention"

The 2019 Hague Judgments Convention (Judgments Convention) marks a pivotal development in private international law, offering a uniform framework for cross-border enforcement that enhances predictability and reduces legal fragmentation. By promoting legal certainty, it supports international trade and commercial relations and aligns with the broader push for greater judicial cooperation in the interconnected world. This article argues that it is in the clear interests of Commonwealth states to ratify the Convention. The Convention offers an avenue to strengthen the "Commonwealth advantage" by leveraging shared legal traditions and institutional ties to facilitate cooperation which the Commonwealth Model Law is unlikely to do on its own. Set against the backdrop of Brexit and the UK's search for new legal alignments, the article further proposes that the UK's ratification of the Convention can serve as a source of proactive inspiration for other Commonwealth states. As the key influencer and first Commonwealth state to ratify the Convention (apart from Malta and Cyprus, which acceded through their EU membership), the UK is uniquely positioned to promote wider adoption and reinforce both legal integration and commercial certainty. Such cooperative efforts can further consolidate the Commonwealth's role in shaping the evolution of global private international law.

Bianca Scraback, "The international element requirement for consumer contract jurisdiction in the Brussels Ia Regulation"

Whether or not local jurisdiction in consumer contract cases is regulated in the EU by the Brussels Ia Regulation or domestic rules on jurisdiction hinges on the existence of a relevant international element. Even determining the relevance of international elements using a rules-based approach and despite two decisions of the CJEU, the paper argues that the requirement leads to unpredictability that is

not warranted in light of the interests involved. It therefore proposes a legislative change limiting the determination of local jurisdiction to consumer contract cases where the parties are not both domiciled in the same Member State. If there are more than two parties involved, the paper proposes to include a rule modelled after Article 8(1) of the Brussels Ia Regulation.

Bálint Kovács, “Europeanisation of private international law: Balancing national traditions and EU rules”

The reviewed monograph provides a thorough examination of Hungarian private international law, set against the backdrop of EU private international law developments, and their application by the Hungarian judiciary. The book begins with a historical overview of Hungarian private international law, culminating in the 2017 recodification under the Act on Private International Law (APIL). It systematically explores sources of private international law, including national legislation, EU regulations, and international treaties. Key issues such as choice-of-law principles, jurisdiction, recognition and enforcement of judgments, and international civil procedure are dissected with comprehensive reference to Hungarian jurisprudence. The book also contains the English translation of the Hungarian APIL, as well as a complete list of bilateral and multilateral international agreements that include private international law provisions to which Hungary is a party. Its clarity, analytical depth, and practical insights make it a significant contribution, and an invaluable resource for both scholars and practitioners.